IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 1909 of 2005

CRA.529/2004 of VI ADDL. DIST. & SESSIONS COURT, ERNAKULAM
CC.655/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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REVN. PETITIONER: APPELLANT/ACCUSED:

A.J. ZACHARIAS,
EDATHARAKKARI HOUSE,
KARIKKAD P.O., ALAPPUZHA.

BY ADV. SRI.A.KRISHNAN

RESPONDENTS: RESPONDENTS/COMPLAINANT:

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1. K. CHANDRASEKHARAN NAIR,
BRANCH IN-CHARGE AND AUTHORISED REPRESENTATIVE
INVESTMENT TRUST OF INDIA, MATHER SQUARE,
1ST FLOOR, OPPOSITE NORTH RAILWAY STATION.

2. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR.

BY ADV. SRI.K.R.SUNIL
SRI.K.R.SUNIL
PUBLIC PROSECUTOR SRI.FIROZ.K.M.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Crl.R.P.NO.1909 OF 2005

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Dated this the 20th day of December 2006

ORDER

The accused convicted for offence under Section 138 of the N.I. Act and sentenced thereunder to undergo simple imprisonment for a term of three months and is further directed to pay an amount of Rs.58,520 by way of compensation to the complainant under Section 357 (3) Cr.P.C. is the petitioner. He has filed this revision assailing the concurrent findings and the conviction entered into by the courts below against him under Section 138 of the N.I. Act. Counsel for the petitioner submits probably on being convinced that he is not able to convince this court that grounds exist to interfere with the concurrent conviction that this revision need not be considered on merits and his only prayer is to have the sentence of imprisonment modified and reduced directing the petitioner to pay compensation only. The submission is considered favourably.

In the result, while confirming the conviction of the petitioner for offence under Section 138 of N.I. Act, I modify the sentence to one of imprisonment for one day till rising of court

and also direct him to pay by way of compensation an amount of Rs.65,000/- to the first respondent/complainant under Section 357 (3) Cr.P.C and in default to undergo simple imprisonment for three months. The petitioner shall surrender before the Judicial First Class Magistrate-II, Ernakulam positively within two months from today to serve the sentence and shall deposit the entire compensation amount of Rs.65,000/- before that court, failing which the learned Magistrate shall enforce the default sentence against the petitioner forthwith.

K.P.BALACHANDRAN, JUDGE

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